



**State of Alaska
Department of Labor and Workforce Development
Division of Labor Standards and Safety**

Effective November 9, 2018

2018 FOM Penalties Supplement

Executive Summary

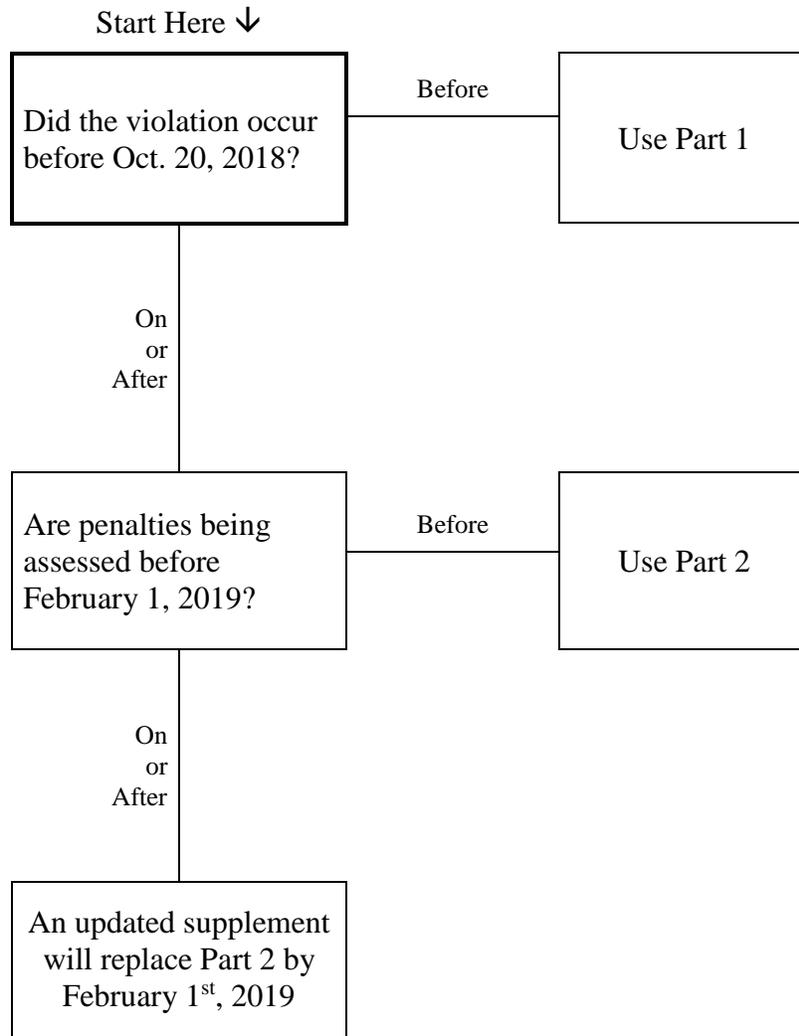
This document is a supplement to chapter 6 of the AKOSH Field Operations Manual, PD 19-06. The purpose of this document is to aid AKOSH personnel in proposing initial penalties for violations of Alaska’s occupational safety and health standards.

How to Use This Supplement

Chapter 6 of the AKOSH Field Operations Manual provides the policies for proposing penalties for violations. It contains references to the tables contained within this supplement. To use this manual, first identify the appropriate part of the supplement based on the violation date of a citation. The “penalties decision chart” is a helpful tool to identify the correct part. Turn to that part, and use the appropriate table as referenced in the Field Operations Manual.

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Penalties Decision Chart



Part 1: Violations Occurring Prior to October 20, 2018

Part 1: Violations Occurring Prior to October 20, 2018

This part shall be used to assess penalties for *all* violations occurring before October 20, 2018.

Table S-1: Statutory Maximum and Minimum Penalties

Previously set by AS 18.60.095

Violation Type	Maximum	Minimum
Willful	\$70,000	\$5,000
Repeat	\$70,000	N/A
Serious	\$7,000	N/A*
Other than serious	\$7,000	N/A
Failure to abate	\$7,000 per day unabated beyond the abatement date**	N/A
Posting requirements	\$7,000	N/A

*Although not a statutory requirement, it is AKOSH policy that when a proposed penalty for a serious violation would amount to less than \$100, a \$100 penalty shall be proposed for that violation

**generally limited to 30 days maximum

Table S-2: Violation Gravity Definitions

The gravity of a violation is defined by the gravity-based penalty (GBP):
<p>A high gravity violation is one with a GBP of \$5,000 or greater. A moderate gravity violation is one with a GBP of \$2,000, \$2,500 or \$3,500. A low gravity violation is one with a GBP of \$1,500.</p>

Table S-3: GBP for Serious Violations

Severity + Probability = GBP

Severity	Probability	GBP	Gravity	OIS Code
High	Greater	\$5,000 (or \$7,000)	High	10
Medium	Greater	\$3,500	Moderate	5
Low	Greater	\$2,500	Moderate	5
High	Lesser	\$2,500	Moderate	5
Medium	Lesser	\$2,000	Moderate	5
Low	Lesser	\$1,500	Low	1

Part 1: Violations Occurring Prior to October 20, 2018

Table S-4: GBP for Other-Than-Serious Violations

Severity	Probability	GBP
Minimal	Greater	\$1,000 - \$7,000
Minimal	Lesser	\$0

Table S-5: Repeat Other-Than-Serious, No Initial Penalty

For a repeated other-than-serious violation that otherwise would have no initial penalty, a GBP penalty shall be proposed as follows:
<ul style="list-style-type: none"> ➤ \$200 for the first repeated violation, ➤ \$500 for the second repeated violation, and ➤ \$1,000 for a third repetition.

Table S-6: Serious Willful Violations

Total percent reduction for size and/or history	High Gravity	Moderate Gravity	Low Gravity
0%	\$70,000	\$55,000	\$40,000
5%	\$66,500	\$52,250	\$38,000
10%	\$63,000	\$49,500	\$36,000
15%	\$59,500	\$46,750	\$34,000
20%	\$56,000	\$44,000	\$32,000
25%	\$52,500	\$41,250	\$30,000
30%	\$49,000	\$38,500	\$28,000
40%	\$42,000	\$33,000	\$24,000
50%	\$35,000	\$27,500	\$20,000
60%	\$28,000	\$22,000	\$16,000
70%	\$21,000	\$16,500	\$12,000
80%	\$14,000	\$11,000	\$8,000
90%	\$7,000	\$5,500	\$5,000

Table S-7: Failure to Provide Access to Medical and Exposure Records

<ul style="list-style-type: none"> ➤ A GBP of \$1,000 shall normally be proposed for each record (i.e., either medical record or exposure record, on an individual employee basis). ➤ A maximum GBP of \$7,000 may be proposed for such violations.

Part 2: Violations Occurring On or After October 20, 2018

Part 2: Violations Occurring On or After October 20, 2018

This part shall be used to assess penalties for violations occurring on or after October 20, 2018, where penalties are being assessed before February 1, 2019.

Table S-1: Statutory Maximum and Minimum Penalties

Set by AS 18.60.095 and further defined under 8 AAC 61.140

Violation Type	Maximum	Minimum
Willful	\$129,336	\$9,239
Repeat	\$129,336	N/A
Serious	\$12,934	N/A*
Other than serious	\$12,934	N/A
Failure to abate	\$12,934 per day unabated beyond the abatement date**	N/A
Posting requirements	\$12,934	N/A

*Although not a statutory requirement, it is AKOSH policy that when a proposed penalty for a serious violation would amount to less than \$924, a \$924 penalty shall be proposed for that violation

**Generally limited to 30 days maximum

Table S-2: Violation Gravity Definitions

The gravity of a violation is defined by the gravity-based penalty (GBP):
<ul style="list-style-type: none"> • A high gravity violation is one with a GBP of \$12,934 • A moderate gravity violation is one with a GBP ranging from \$7,391 to \$11,086 • A low gravity violation is one with a GBP of \$5,543

Table S-3: GBP for Serious Violations

Severity + Probability = GBP

Severity	Probability	GBP	Gravity	OIS Code
High	Greater	\$12,934	High	10
Medium	Greater	\$11,086	Moderate	5
Low	Greater	\$9,239	Moderate	5
High	Lesser	\$9,239	Moderate	5
Medium	Lesser	\$7,391	Moderate	5
Low	Lesser	\$5,543	Low	1

Part 2: Violations Occurring On or After October 20, 2018

Table S-4: GBP for Other-Than-Serious Violations

Severity	Probability	GBP
Minimal	Greater	\$1,000 - \$12,934
Minimal	Lesser	\$0

Table S-5: Repeat Other-Than-Serious, No Initial Penalty

For a repeated other-than-serious violation that otherwise would have no initial penalty, a GBP penalty shall be proposed as follows:
<ul style="list-style-type: none"> ➤ \$370 for the first repeated violation, ➤ \$924 for the second repeated violation, and ➤ \$1,848 for a third repetition.

Table S-6: Serious Willful Violations

Total percent reduction for size and/or history	High Gravity	Moderate Gravity	Low Gravity
0%	\$129,336	\$110,856	\$92,386
5%	\$122,869	\$105,313	\$87,767
10%	\$116,402	\$99,771	\$83,147
15%	\$109,936	\$94,228	\$78,528
20%	\$103,469	\$88,685	\$73,909
25%	\$97,002	\$83,142	\$69,290
30%	\$90,535	\$77,600	\$64,670
40%	\$77,602	\$66,514	\$55,432
50%	\$64,668	\$55,428	\$46,193
60%	\$51,734	\$44,343	\$36,955
70%	\$38,801	\$33,257	\$27,716
80%	\$25,867	\$22,172	\$18,478
90%	\$12,934	\$11,086	\$9,239

Table S-7: Failure to Provide Access to Medical and Exposure Records

<ul style="list-style-type: none"> ➤ A GBP of \$1,848 shall normally be proposed for each record (i.e., either medical record or exposure record, on an individual employee basis). ➤ A maximum GBP of \$12,934 may be proposed for such violations.
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Appendix A

Purpose:

This appendix provides instructions for updating the AKOSH Penalties Supplement when maximum penalty adjustments occur.

Background:

Following the *Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015*, federal OSHA began adjusting its maximum¹ penalties according to the Consumer Price Index for All Urban Consumers (CPI-U). Alaska was required to follow suit, and Alaska's initial penalty adjustment went into effect on October 20, 2018.

No later than January 15th each year, the United States Department of Labor will publish a notice in the Federal Register with OSHA's new maximum penalties for that year. Alaska follows suit by publishing the pamphlet, "*Alaska Occupational Safety and Health Civil Penalties*" which goes into effect on February 1st. The new amounts apply to penalties assessed on or after February 1st. Alaska's maximum penalties must be the same as those for federal OSHA.

Penalty Adjustments:

The FOM Penalties Supplement must be updated yearly by February 1st. AKOSH will also need to update OIS to fully implement the new penalties.

Steps for updating the FOM Penalties Supplement:

1. **For the February 1st, 2019 Penalties Supplement only:** delete Part 1 and the "Penalties Decision Chart". These were for the initial transition and are not applicable to future updates.
2. Identify the year's CPI multiplier in the Federal Register notice. Multiply all penalties in the supplement by that amount, rounding to the nearest dollar.
3. Check the results against federal OSHA's updated OIS penalties. If a rounding discrepancy exists (\$1), use the federal penalty amount.
4. Re-name the supplement for the year when it becomes effective. Publish with an effective date of February 1st.

¹ Where the term maximum is used, it also refers to the minimum penalty for willful violations.